

STATE OF MICHIGAN
COURT OF APPEALS

TODD A. PERMUT

Plaintiff-Appellee,

v

WAYNE STATE UNIVERSITY BOARD OF
GOVERNORS,

Defendant-Appellant.

UNPUBLISHED

May 24, 1996

No. 173315

LC No. 92-14648-DM

Before: Taylor, P.J., and Murphy and E.J. Grant,* JJ.

PER CURIAM.

Defendant appeals as of right from a Court of Claims order granting summary disposition to plaintiff under MCR 2.116(C)(10) and awarding plaintiff a judgment of \$15,167.94. We reverse and remand for entry of a judgment in defendant's favor.

Plaintiff moved to Michigan to attend defendant's medical school. Defendant classified plaintiff as a nonresident for tuition purposes. Near the end of plaintiff's third year of medical school, plaintiff sought to be retroactively reclassified as a resident in order to benefit from the reduced tuition rate applicable to resident students. Defendant denied plaintiff's request on the basis of its established set of regulations. After exhausting his administrative remedies, plaintiff filed a lawsuit in the Court of Claims asserting that he had been denied equal protection under the law because a different student had been granted resident status after becoming engaged to marry a Michigan resident.

In granting plaintiff's motion for summary disposition, the court held that classifying residency in part on the basis of engagement bore no rational relationship to defendant's objective in determining whether a student is a bona fide state resident. We review constitutional rulings de novo. *Scots Ventures v Hayes Township*, 212 Mich App 530, 532; 537 NW2d 610 (1995).

* Circuit judge, sitting on the Court of Appeals by assignment.

Equal protection of the law is guaranteed by the state and federal constitutions. Const 1963, art 1, § 2; US Const, Am XIV; *Frame v Nehls*, 208 Mich App 412; 415; 528 NW2d 773 (1995). The state and federal constitutional guarantees of equal protection under law afford similar protection. *Doe v DSS*, 439 Mich 650, 670-671; 487 NW2d 166 (1992). An equal protection challenge to a social or economic policy, such as is at issue here, is examined under the “rational basis” test. *People v Perlos*, 436 Mich 305, 331-332; 462 NW2d 310 (1990); *Feaster v Portage Public Schools*, 210 Mich App 643, 650-651; 534 NW2d 242 (1995), reversed on other grounds ___ Mich ___ (Docket No. 103255, issued 5/14/96).

Defendant’s regulations state that a social compulsion causing a person to abandon a former residence and to acquire residence in the state has probative value, but is not conclusive, in supporting a claim of residence. Defendant further recognizes engagement to a Michigan resident as evidence of a social compulsion to acquire state residence.

Under the rational basis test we examine defendant’s policy of considering engagement to a state resident as evidence of a social compulsion to acquire state residence to determine whether it creates a classification scheme rationally related to a legitimate governmental purpose. *Id.* We do not determine the wisdom, need, or appropriateness of defendant’s policy. *Id.* A rational basis exists when any set of facts can reasonably be conceived to justify the discrimination. *Wartella v East Detroit*, 161 Mich App 552, 556; 411 NW2d 751 (1987); *Bissell v Kommareddi*, 202 Mich App 578, 580; 509 NW2d 542 (1993).

We find that defendant’s challenged policy is rationally related to the legitimate goal of differentiating between resident and nonresident students. *Feaster, supra*; *Hauslohner v Regents of the University of Michigan*, 85 Mich App 611, 615; 272 NW2d 154 (1978); *Spielberg v Board of Regents, University of Michigan*, 601 F Supp 994, 998 (ED Mich, 1985).

Becoming engaged to a Michigan resident gives a greater indication of a social compulsion to abandon a previous residence in favor of Michigan than no such tie would. Engagement to marry a state resident is an objective indication of a social compulsion to domicile in Michigan. Although one could argue that engagement to a state resident is a weak indicator of an intent to domicile in Michigan, it does bear some relationship to that question and therefore it satisfies the rational basis test. This is especially true where defendant does not consider it conclusive. As previously stated, the wisdom of the policy is not the test. Defendant’s policy is not so irrational that it may be considered arbitrary. *Spielberg, supra* at 999. *Feaster, supra* at 654.

Reversed and remanded for entry of a judgment in favor of defendant.

/s/ Clifford W. Taylor
/s/ William B. Murphy
/s/ Edward J. Grant